

Q. Is it the fact that you maintained, either in your own name or in the name of someone else, an apartment at that address? A. No, sir.

Q. You are certain that that is not the fact? A. 742 No.

Q. What connection, if any, did your father have with the Nazi Party? A. My father, in 1933, upon the advice of—

Mr. Gallagher: Your Honor, we object to this line of questioning. We cannot see the relevancy of it. Membership in the party is not at issue in this matter at all.

The Court: I presume he is trying to show some connection between father and son.

Is that right?

Mr. Burling: Yes, Your Honor.

The Court: Subject to being connected up with the son, I will permit it.

Mr. Burling: And may I respectfully request the Court to ask that I can examine without interference?

Mr. Gallagher: You don't want to deny to us the right of objection, do you, Mr. Burling?

Mr. Burling: If Your Honor please, I have no objection to my friends objecting. I do wish they would communicate without interfering with my train of thought, and pass each other notes or talk in a low tone of voice while I am examining.

By Mr. Burling:

Q. Your father joined the party in July, 1933? Is that right? A. Yes; I was informed about it in 1945 or 1946.

742 Q. I see. Your father was also a contributing member of the SS? Is that right? A. Yes—what you call a dues paying member.

Q. A dues paying member of the SS? A. Yes.

Q. Will you state briefly what the SS was?

Mr. Ingoldsby: If Your Honor please, may I be heard on this matter?

The Court: All right.

Mr. Ingoldsby: The issue in this case, as I understand it, the Government has conceded or stipulated in the pre-trial proceedings, that there was only one issue of fact here, and that is whether or not the property which is the subject matter of this suit is owned or controlled or tainted with an enemy interest.

We submit that if it could be developed by the Government that this property was owned, controlled, or subject to an enemy taint, that is, by "enemy" I mean the term "German" in this instance, it makes absolutely no difference whether he is the highest Nazi, or the greatest soldier in the German Army, or the most lowly non-party member; and I submit, therefore, the matter is completely irrelevant and is only meant to becloud the general overall issue.

If Mr. Burling insists it is relevant, I wish he would state the basis of the relevancy at this time.

744 Mr. Burling: The principal ground of relevancy, if Your Honor please, is that my friend this morning so explained all these complex devices for hiding these real assets, by indicating that it was necessary to hide them because the German Government in 1933, '34, '35, and '36 was putting pressure on Wilhelm von Opel.

I seek to show that it is unlikely this man, who was an SS man, a party member, a man who supported Hitler before he came into power, was being coerced; and that the real reason for all this hiding was not to hide the property from the Germans, but to hide it in other ways, including hiding it from us.

Mr. Ingoldsby: I submit, if Your Honor please, on the statement of Mr. Burling there has been no statement of relevancy.

I might also point out at this time, if this is his theory, we deny there was any such relationship as he states between Mr. von Opel and Hitler.

Now, we don't think in this proceeding to determine whether or not the property is in fact owned or substantially controlled by Wilhelm von Opel it is necessary to go into any relationship with Adolph Hitler or the Nazi Party or anything else. The question is, was it German?

The inference Mr. Burling raises by the statement he has just made is simply this, that he intends to prove that Mr. von Opel was on sufficiently good terms with Adolph Hitler so that he could disobey all German laws with complete impunity. I think that that statement would pretty nearly refute itself. It is inconceivable that anybody is on such terms in any country. It is just exactly like pointing out and establishing that somebody was a friend of Harry Truman in this country, and therefore it was inconceivable that the Treasury Department would be bothering him on income tax here. That is about as close a corollary as we can find.

I might also say, Your Honor, on the very question which is now raised, it was covered by the stipulation which was entered in evidence this morning, namely, that the father, Wilhelm von Opel, was fined a total of three million five hundred thousand reichsmarks—and I don't have a copy of the stipulation before me, and without having the reporter read it, my recollection of the stipulation is that it goes further.

Mr. Burling: It does not, if Your Honor please—not one bit further.

Mr. Ingoldsby: All right; let us get the stipulation.

Mr. Gallagher: The stipulation reads as follows:

"It is hereby stipulated between the parties that a fine was imposed upon Wilhelm von Opel in the District Court in Frankfurt, Main, on July 14, 1934, in connection with the gift agreement, in the amount of three and a half mil-

746 lion reichsmarks.

"It is further stipulated between the parties that no objection will be made to Fritz von Opel's testifying that he thought further payments would be demanded by the German Government pursuant to the provisions of the gift agreement."

That is the stipulation.

Mr. Burling: That is not a stipulation as to fact. It is a stipulation that I won't object.

The Court: Gentlemen, I think in this case the motives or reasons for these transfers would be important, and I think I ought to give the Government considerable latitude in developing any possible motive which is contrary to that which you suggest. And I should imagine the ownership in the beginning by Mr. von Opel, who made the transfers at a later time, would be important, that is, at the time he made the transfers; and subsequently, probably, it would be important to know what his relations would be over there in Germany which might make him want to make certain changes.

Mr. Ingoldsby: I think that we might agree to that, Your Honor, that that possibly might have been very pertinent there at the time at which the transfers were made, but the transfers were made in either October or November, whether you accept the plaintiff's position or the defendant's position.

747 The Court: I suppose you could not hold him down to too much exactitude as to time. I think it would be open for you to argue that. But there were certain actions taken in regard to this, weren't they, after 1933?

Mr. Ingoldsby: With reference to the gift itself?

The Court: No—with reference to this entire transaction.

Mr. Ingoldsby: If I might state that, Your Honor—

The Court: Aren't there certain waivers they claim, a relinquishment?

Mr. Ingoldsby: In 1935?

The Court: Yes. It seems to me that that whole atmosphere is proper to go into.

Mr. Ingoldsby: May I ask, if Your Honor please—I don't mean to ask a question—but I simply want to point this out to the Court:

I believe Your Honor has a fairly general picture of what took place which resulted in a summary decree in 1934 against Wilhelm von Opel. The statement was made by Mr. Gallagher yesterday, and another statement was made by Mr. Burling. The only difference, really, that occurs in the two statements is that if one were to accept Mr. Gallagher's statement of what happened, there would be no disagreement with what ultimate determination was made. The Government will agree that that was the
748 ultimate determination in the criminal proceedings.

The place where they differ in the conception of what took place in 1933 and 1934 in connection with these proceedings is found in what the underlings, what some of the people who handled the matter as it progressed along the way, thought about it, and by showing what certain individuals and the German Government thought about the case, such as the prosecutor, or an assistant minister.

The Court: I don't think we have gone into that. As I understood the situation, Mr. Burling objected yesterday to any of that court record of proceedings. He said it was irrelevant and not binding upon this Court, and the like.

I was debating as to whether to permit this witness to say he had certain reasons for making a transfer, you see?

Mr. Ingoldsby: Yes, Your Honor.

The Court: When you reached the stipulation on the subject—not that that would be admissible for the purpose of my dealing with that situation in Germany, but admissible for the purpose of your asking him a question on it. And I don't understand Mr. Burling is opening that up now.

I understand what Mr. Burling is trying to develop now

is that the father of this witness had certain motives by reason of his association with the Nazis, which would lead him to go into these transactions, or acquiesce in them, or have these dealings—not only here, but, as I
749 understand, they went down as far as 1935.

Mr. Burling: You mean as far as 1941, if Your Honor please?

The Court: I mean on down.

I don't think I have to admit it. I think you can argue it a little later on, as to what its significance is. It is a little difficult for me, in these ramifications, to consider the admissibility of all this testimony. I will hear you at the end of the case.

Mr. Ingoldsby: I was merely considering the possibility, Your Honor, if this is gone into, possibly the entire criminal proceedings might have to be gone into.

The Court: Well, that may be. I am not going to rule on that yet.

Mr. Ingoldsby: All right, sir.

By Mr. Burling:

Q. I believe the pending question is, will you state what the SS was? A. I am not informed about the Nazi Party organizations, Mr. Burling.

Q. You don't know what the letters SS stand for? A. I know as much about it as everybody who reads newspapers.

Q. Well, can you state what about it you do know? A. There was the SK, and there was the SS.

750 Q. What do you know about the SS? A. I can tell you very little about it.

Q. Well, will you tell us what you can about it, then, please? A. I think it was quite a limited membership in number. I think a much bigger organization was the SA.

Q. What was the nature of the organization? A. I couldn't tell you, Mr. Burling.

Q. You have no idea what the organization was organized for? A. They had so many organizations, and different names; it was of no interest to me, Mr. Burling.

Q. You were in Berlin every year between 1933 and 1939, were you not? A. But I wasn't—

Q. Were you or were you not, sir? A. Yes.

Q. Thank you. A. Yes, I was in Berlin—

Q. Every year? A. Frequently, yes.

Q. You were in Berlin frequently? A. Yes.

Q. And you mean to say you don't have any idea what the SS was organized for? A. I have a general
751 idea.

Q. Will you state what the general idea was? A. It was a party organization of the Nazi Party.

Q. What kind of an organization? A. I couldn't tell you that.

Q. Will you agree with me that it was the Nazi Party Elite Guard? A. I think they were called "Storm Troopers" wasn't it?

Q. What does "Sturm-Abteilung" mean? That means "Storm Troop" doesn't it? A. No; I think SS means—I don't even know what application it has.

Q. You don't know what the word "Sturm-Abteilung" means in English? A. I don't understand your question. Do you want it translated?

Q. Yes, please. What does the word "Sturm" mean, first? A. "Storm."

Q. And what does the word "Abteilung" mean? A. It means "Division", "Echelon".

Q. "Troop"? A. "Troop".

Q. So "Sturm-Abteilung", in German, is "Storm
752 Troops"? A. Yes.

Q. And those were the SA men, the brown shirts? A. I guess so, yes.

Q. And you know very well the SS men wear the black

shirts? A. They had black uniforms; I know that, certainly.

Q. And they were the Nazi elite, weren't they? A. I don't know how they were regarded among the Nazis.

Q. You never heard about that? A. I heard about SS, certainly.

Q. And your father contributed a monthly contribution of a hundred marks to this organization, did he not? A. I don't know from my own knowledge, Mr. Burling, because I heard the whole not before the end of the war. And I was quite embarrassed about it, to tell you the truth. And for one year I didn't even correspond with my father.

Q. You learned also, did you not, that your father had been appointed to the National Academy of Law? A. Yes.

Q. And you learned, did you not, that those appointments were made by Hitler? A. He made all appointments inside of Germany.

Q. And you knew, did you not, that your father had his picture published in company with that of Adolph Hitler?

A. He had published in company with the Kaiser.
753 with Marshall Hindenburg, with the Archduke—

Q. Just a moment, please, Mr. von Opel. I have repeatedly asked you to answer my question. If you want to talk about the Kaiser, or Hindenburg, you can testify to that through your own counsel. My question to you is a simple one:

Don't you know your father had his photograph published in the papers with Hitler in the same picture? A. You said "had his photograph published in a paper". That implies that he himself had it published which is not a fact, I am sure of that.

Q. Very good. Was his picture published in a paper standing with Hitler? A. That is possible, certainly.

Q. Is it true? A. I couldn't tell you. I haven't seen the picture, but it is possible, because at every automobile exhibition in Berlin, every leader of the Berlin Government.

whoever it was, conducts at different stands and groups and pictures were taken there.

Q. And do you not know it to be a fact that before Hitler came into power your father signed an appeal to the German people, along with other German industrialists, to vote for Hitler? A. I am not aware of this fact.

754 Q. Have you any knowledge of this fact whatever?

A. No, I have not.

Q. You don't know that that was true or not? A. No, I don't.

Q. You are in complete ignorance? A. Yes, I am.

Q. Didn't your father so state in his deposition? A. Please?

Q. Have you read your father's deposition? A. I read my father's deposition.

Q. And didn't he say that? A. He stated it, but I personally have no knowledge of it, except what he stated.

Q. When did you first learn of your father's connection with the Nazis? A. 1945 or '46, after the war.

Q. Under what circumstances did you learn it? A. I don't remember the circumstances.

Q. You mean you don't remember who told you or how you came to learn it? A. Yes, I think I remember now. I think it came to me by a survey of General Motors. It had some connection with General Motors. I think he had to give up his chairmanship of the board.

755 Q. The board of Adam Opel A. G.? A. Yes.

Q. And you think some General Motors official told you why? A. That is possible. I think I heard indirectly about it.

Q. I see. After you heard indirectly, did you write to him and ask him about the story? A. Do not overlook the fact that for about a year or a year and a half there was no connection between the United States and Germany, either by writing or by cables. There was no mail between the two countries.

Mr. Burling: May I have a moment, Your Honor?

By Mr. Burling:

Q. When did you first write to your father after the cessation of hostilities? A. I don't remember when the mail service was opened. I should say it was about the middle of 1946 or the end of 1946, or maybe even 1947. It was closed for quite a long time.

Q. I see. Now, you conversed with your father from time to time in Germany before you left Europe in 1940, did you not? A. Yes, I did.

Q. And he never told you anything at all about party membership? A. No, he did not.

Q. Now, without going into the nature of what we have referred to as the criminal proceedings, your father was in some kind of trouble with the German Government in 1933 and 1934, was he not? A. Yes.

Q. And during those years you were not infrequently with him in his home or in Berlin? Is that true? A. I saw him in connection with this investigation, yes.

Q. You had extensive conversations with him in that connection, didn't you? Isn't that true? A. No, that is not quite correct, because I was in Switzerland, and I even refused to go to Germany. And my mother and my father's lawyer came to Switzerland imploring me to return and to help my father.

Q. Is it your testimony that in none of the conversations which you had with your father concerning the fact that the German Government was taking some sort of measures against him did he ever mention to you the fact that he was a Nazi Party member? A. No; I was completely taken by surprise when I heard such in 1946 or 1947.

Q. When did you first correspond with your father after the cessation of hostilities?

Mr. Ingoldsby: The question has been answered.

Mr. Burling: I want to have it over again, to make sure I heard it correctly.

The Witness: I don't remember the exact date. I don't remember when the postal service was reopened.

By Mr. Burling:

Q. The question of when the postal service was reopened doesn't necessarily determine when you wrote a letter to your father, does it? A. I really don't know what you mean by it.

Q. Did you not correspond before it was lawful to do so? A. Before the postal service opened, you mean?

Q. Yes. A. I tried to get in contact with him, yes.

Q. You did, didn't you? A. Yes.

Q. So that your testimony relating to the postal service was designed to mislead us, was it not? A. No, definitely not, because the only thing I could do at the time was to ask a friend who went into Germany, to say hello to my father and to tell me how he was.

Q. I will show you—

Mr. Gallagher: Let us see it first, will you please,
758 since we do not have a copy of it?

(The document referred to was handed to counsel for plaintiff.)

By Mr. Burling:

Q. While we are waiting, I will go on to another question:

Did your father ever indicate to you in any affirmative manner, either in words or in substance, that he was not a party member? A. I was not aware of the fact that he was a party member, and he even indicated it to me.

Q. He did in fact indicate to you that he was not a mem-

her? A. Yes. He—at least to put it in the other way—he apparently did not want me to know that he had become a member. And I was quite amazed when I heard it, because I felt that he kept it away from me because he knows I wouldn't agree to it.

Q. Is it not the fact that in 1940, in the Zurich Railway Station, your father thanked you for having caused him to stay out of the party? A. Yes, exactly.

Q. In other words, your father lied to you in 1940 about his party membership?

Mr. Ingoldsby: I object to that, Your Honor. I
759 don't think the witness is required to draw the conclusion.

The Court: I think that is right.

Mr. Burling: I will withdraw the question.

(To counsel for plaintiff:) May we have the document?

Mr. Ingoldsby: May we have a second to look this over?

Mr. Burling: Certainly.

By Mr. Burling:

Q. Did you ever ask your father whether he was contributing any money to the Nazis— A. No.

Q. During— A. No.

Q. But you testified at the Miami hearing, however, you were definite he had never contributed anything, didn't you? A. I was definite that he hadn't, yes.

Q. You were definite he had not contributed anything to the Nazis, even though you had not asked him? A. Yes. He never told me so that he had contributed.

Q. Yes; but you had never asked him? A. I don't know that I asked him, but I always thought I would know about it, if he would do such a thing.

Mr. Burling (to counsel for plaintiff): May I have this letter now? You have had it for two years. I think that is time enough to examine it.

760 Mr. Ingoldsby: Before we go into this letter, I wonder if we might have an opportunity to find out if we have had it for two years, Your Honor? Frankly, I have never seen the letter before. I don't know whether we have it or not. If we have, it is new to me.

The reason I ask for the time at this moment, Your Honor, is that I want to look and see exactly what the order of this Court provides with reference to the Department's turning over to counsel for the plaintiff copies of all documents they intend to use. We will have that in just a moment.

The Court: You want to look at the document again?

Mr. Ingoldsby: That is what I wanted.

The Court: All right.

By Mr. Burling:

Q. You did testify, throughout the entire enemy alien proceedings, over and over again, did you not, that no member of the Opel family was a party member or associated in any way with the party, did you not? A. Yes, sir; I was convinced.

Q. And you were living in Switzerland for a considerable part of the period between the advent of Hitler and the outbreak of war? A. Yes, sir.

Q. Wasn't your first cousin, Hans von Opel, a prominent leader of the Nazi movement in Switzerland? A. I
761 don't think so. No, I think I would have heard about it.

Q. You never heard about it? A. No. I heard after the war.

Mr. Ingoldsby: If Your Honor please, the reason for taking the time at this particular moment is the fact that we have never before seen this letter which purports to be a copy of a letter written by Fritz von Opel to his father

on November 10, 1945. I don't want to be in error. Therefore I cannot state definitely.

But it was either by agreement of the parties or by order of this Court that all copies of documents which the Government intended to use in connection with this case would be turned over to the plaintiff.

I don't want to make a rash statement, as I say, because possibly it has been turned over to us, and in the welter and confusion of documents, for some reason or other we have not seen it. I am simply accounting for the time taken in looking it over. We are perfectly satisfied it is all right, and Mr. Burling may use it for whatever purpose he desires.

Mr. Burling: If Your Honor please, since I didn't come into the case until recently, I would ask Mr. Baum to make the response to counsel.

Mr. Baum: We obtained in December, 1946, Your Honor, a volume of some 200 documents from Wilhelm von Opel—

762 The Court: Gentlemen, I think you are wasting a lot of time now. Mr. Ingoldsby was just explaining why he took a long time to examine the letter. I think in going into that further we are wasting a lot of time on trifles. We will have to get down to the case, now.

By Mr. Burling:

Q. I show you Defendant's Exhibit 36-A and ask you if that is not a copy of a letter you wrote to your father on November 10, 1945. A. Yes, that is so.

Mr. Burling: I offer it in evidence, Your Honor—Defendant's Exhibit 36 and 36-A.

(The documents referred to were marked and received in evidence as Defendant's Exhibits 36 and 36-A.)

By Mr. Burling:

Q. How did you cause this letter to be delivered to your father?

Mr. Ingoldsby: I object to that, Your Honor.

The Court: What is the materiality, Mr. Burling?

Mr. Burling: I will withdraw it.

By Mr. Burling:

Q. Will you please look at Plaintiff's Exhibit 3, which is the escrow agreement of 1929.

763 When did you first see that instrument? A. I saw that in connection with talks preceding the gift agreement. It is possible that my father sent me a copy of it to Antwerp.

Q. While you were in Antwerp, you knew in general of the provisions of the agreement, did you not? A. No, I did not know the details. I did not know where the shares were held. And I did not know that there was no provision made for an equivalent between reichsmarks and dollars, or gold, because it was very unusual in contracts of this sort.

Q. But you did know, from 1929 until 1931, did you not, that the 600 shares of Opel stock were in escrow and that General Motors could buy them at its option, or your father could sell them at his option? A. In a general way I knew it, but I didn't know those important details.

Q. Whether or not you knew the details, you knew the essence of the agreement, didn't you? A. I knew my father had retained 10 per cent.

Q. You knew the 10 per cent had been subjected to the escrow and the cross option agreements, didn't you? A. I don't think I knew so much about it. Anyhow, I did not know this most important detail, that they were pledged, put up in New York with the National City Bank.

Q. Did you see this, in the affidavit which you
764. filed in the gold case?—

“Prior to the drafting and execution of the deed of gift”—

Which was Exhibit R to that affidavit? A. Yes.

Mr. Burling: This is folio 138, if Your Honor please—

“I had no knowledge of the existence of the escrow agreement, Exhibit Q, relative to these 600 shares of Adam Opel.”
A. G.

The Witness: Yes, that is correct.

By Mr. Burling:

Q. You had no knowledge of the escrow agreement—
A. Yes.

Q. —prior to the drafting of this deed of gift which you said took place on October 5? A. About those details yes, I had no knowledge of it.

Q. You don't say here that you had no knowledge of what bank the agreement is in. You said, “I had no knowledge of the existence of the escrow agreement.”

Isn't that right?

Mr. Ingoldsby: Doesn't that go on to say “relative to these 600 shares”?

Mr. Burling: “Relative to these 600 shares of Adam Opel, A. G.,” yes, sir.

The Witness: I only knew my father had retained
765 10 per cent, but I did not know there was an escrow agreement, particularly since the word “escrow” was entirely new to me.

Q. You did not know that until October 5? A. No—just prior to the drafting and my talks with Mr. Hachenburg.

Q. That is when you first learned about this? A. Yes, those days. I don't know whether three or four days previous. I don't remember that.

Q. In folio 132, you said as follows, referring to the escrow agreement:

"It provided in substance for the retention of the stock certificates by National City Bank until April 1, 1934, and for an option either to General Motors Corporation to buy or to my father to sell after March 31, 1931, at graduated prices varying between 23,000 reichsmarks and 30,000 reichsmarks per share. I did not know of the existence of this particular agreement until October, 1931, herein-after stated."

That is the correct statement? A. Yes. I wouldn't say the date October is entirely correct. It might have been the last day of September. Anyhow, in general, in connection with this gift agreement and the drafting of it, in this connection I heard for the first time the details of this escrow agreement.

Q. You were examined by a representative of the 766 Department of Justice in Gloucester City— A. Where, please?

Q. Gloucester City, New Jersey. A. Yes.

Q. In May, 1945. Is that correct? A. Yes.

Q. Will you state whether or not you said this at that time—

"Then I was transferred to General Motors Antwerp Continental Assembly Plant, and I worked in the General Motors plant for three-quarters of a year as the manager of that plant."

A. That is wrong.

Q. What? A. It must be a misprint. I was no manager there.

Q. (Reading): And saw a friend of mine by the name of Nicholas Van Sittart, a member of the English Propaganda Ministry, in 1931." A. That is not correct.

Q. (Reading): "The devaluation of the pound was quite a shock to Mr. Van Sittart, because he was an Englishman."

A. Yes.

Q. (Reading): "I remembered this agreement my father had concerning this 10 per cent, and I immediately telephoned and my father sent me a copy of this agreement, which I wanted to check and see whether it was
767 proper." A. Yes; that was at the time of the gift agreement. Immediately afterward, I went to Ruesselsheim.

Q. But at this time you said that while in Antwerp you remembered the agreement and telephoned your father and he sent you a copy? A. You will have to get that right. I remember Mr. Van Sittart reminded me there was 10 per cent retained, and he told me to go to Ruesselsheim and straighten that out.

Q. Mr. Van Sittart had knowledge of the escrow agreement? A. Yes; he was one of the managers of General Motors, and he knew in general that General Motors had only taken over 80 per cent, and 20 per cent were left out. I knew that, too; but he was the one who told me, "Don't let the same thing happen to your family what happened to mine." He said, "You will lose through devaluation."

Q. He told you, "Don't let happen to your family what happened to mine"? Is that right? A. Yes, certainly. He had suffered a loss. His capital was sequestered in England, as I understood. And he said, "Is there an agreement between the members of your family and General Motors, covering the remainder of the stock sold?"

Q. But your statement made at Gloucester City is
768 that "I remembered this agreement"—and then skipping—"and I immediately telephoned and my father sent me a copy of this agreement." A. That is what I just said.

Q. That you did remember the agreement? A. I remembered an agreement in general, that there was 20 per cent left out of the sale. Everybody knows it.

Q. At any rate, there isn't any doubt now, is there, that this escrow agreement subjugated the 600 shares of Opel to the terms of the agreement? A. Yes, certainly.

Q. And will you agree with me that the 600 shares represented a fair half of your father's fortune? A. It all depends at which time you make this measurement. If you take it in 1931 when the gift was given, I think it then was about 30 per cent.

Later on, after my father had suffered various losses, it then was maybe half.

Now I will say it is even far more than half, maybe 70 or 80 per cent now.

Q. Did you not state, in a memorandum which you handed to the Department of Justice in 1943, as follows?—

"In 1931 he, Wilhelm von Opel, had given me the fair half of his fortune"?

A. That is, looking upon it from hindsight.

769 Mr. Ingoldsby: Your Honor, may I submit that on a memorandum of that type it should be shown the witness so that he might read it in its proper context, if there is such a memorandum.

The Court: If he has trouble with the question, it is all right.

Mr. Burling: There is no doubt counsel knows about the memorandum. It has been furnished to him.

Mr. Ingoldsby: There are a lot of things we don't know.

By Mr. Burling:

Q. Going back to the fall of 1931; the fact is that your personal relations with your father were quite cool? Isn't that right? A. No, that is not quite correct, Mr. Burling. If you want to go into this matter, we will have to go into it in detail.

Q. That is what I wish to do, Mr. von Opel. A. And not

make general statements. Do you want me to explain that?

Q. No; I shall inquire in detail. A. Please.

Q. Well, starting in 1939, you will agree, will you not—

A. 1929.

776 Q. I am sorry; thank you.

Starting in 1929, you will agree with me, will you not, that the relations between you and your mother and father were severely strained? A. They were very good all through the year 1929, up to October, 1929, when I married. And they remained somewhat estranged for about, I would say, my father met my wife already at Christmas, 1930. So at this time definitely, at least as far as my father and I and my wife was concerned, peace was established again. With my mother, it took somewhat longer.

Q. It never was established with your mother, was it?

A. Please?

Q. It never was established with your mother, was it?

A. You are very mistaken, Mr. Burling. My mother visited us frequently in St. Moritz.

Q. I see. Isn't it the fact that one of the reasons you came to America in 1929 is that there was discord with your family? A. It was some of the reason, yes.

Q. You have previously so stated, have you not? A. Yes; it was a contributing factor.

Q. Now, in the course of the Gloucester City interrogations, you stated, did you not, that one of the reasons you determined to move your domicile to Switzerland

771 was because you were not on too good terms with your family? A. That relates to the time of, I think, 1932 or 1933. At these times there were still slight misunderstandings with my mother, and particularly with my uncle. I had entirely broken with my uncle.

Q. Were you not asked this question, and did you not give this answer?—

"Well, can you be more specific as to what led you to move your domicile to Switzerland?"

"Answer: There were several personal reasons. I wasn't on too good terms with my family, and I wanted to stay away."

A. Yes; it was one of several reasons, as it says there.

Q. And you didn't take up domicile or residence in Switzerland until early in 1932? Is that right? A. I lived there for the first time in 1931.

Q. When, please? A. In 1931.

Q. When? What month? A. I think I lived there from the end of the year to about, I guess about May, I would say.

Q. Is that the time when you said that one of the reasons you moved your domicile to Switzerland was that you were not on too good terms with your family and you
772 wanted to stay away?—

And that relates to a time after the alleged gift of the 600 Opel shares? Isn't that right? A. Yes, definitely. But I explained to you, at this time—

Q. If you wish to testify on an additional matter beyond my question, your counsel will have adequate opportunity to bring it out.

Now, the difficulties between you and your parents, which your marriage caused, continued to exist until you last left Europe, did they not? A. Until I did what?

Q. Until 1940, when you left Europe for the last time. A. Oh, definitely not. You are entirely mistaken.

If you will be kind enough, for instance, to take Defendant's Exhibit No. 27, you will see there a letter written in 1939 from my father to me, where he sends his heartiest regards to my wife and myself, which shows we were certainly on good terms.

Q. Your father and your wife were on good terms in 1939? Is that right? A. I should say so, yes.

Q. When was your father reconciled to your marriage?

A. I told you he saw my wife first at Christmas, 1930. When he saw her first, and when he was reconciled

773 to the marriage—then he met her first and accepted her socially, or whatever you might call it.

Q. And, after that, the relation between the various members of the family was friendly? Was that right? A. My relations with my father, so to say, were, irrespective of my marriage, always very good.

Q. And I again ask you to answer the question I ask you, and not something else.

Is it your testimony that the relations between you, your wife, your mother, and your father were all friendly after 1931? A. I wouldn't make such a statement, Mr. Burling. You cannot lump four people together, you see. You see, there are several interrelations, as I told you before.

Q. Was any of those interrelations very unfriendly? A. I tried to explain that to you. My relations with my father, even irrespective of my marriage, and even in the first year of it, were always friendly.

Q. Go ahead, please. A. Yes. Of course, I resented he didn't want to meet my wife, and you can call that a strained relation. But after he met her, and after he accepted her, this relation was then on the old terms. However, with my mother, it took somewhat longer.

Q. How long? A. I don't remember that in detail, but I should say offhand, two or three years longer.

Q. Is it not the fact that your wife rarely saw your father from the time you were married up to the day he died? A. No, you are mistaken. He very often visited us and always told us he spends the happiest hours of his life with us at St. Moritz.

It isn't normal that a father visits a son whom he hates and stays in the house with the wife he dislikes.

Mr. Burling: I move to strike that, Your Honor, on the ground it is not responsive.

By Mr. Burling:

Q. Didn't you say this, to the Miami hearing board?—
and I am reading from page 90—

"How long were you there at this time?"

Weren't you asked, first, when were you last in Wiesbaden, and didn't you say 1939?—and then:

"How long were you there at this time?"

"Answer: At this time it is hard to say; maybe a week or two weeks.

"Was your wife with you?"

"No. She was in Germany once in a while, but she does not see my mother and my father only occasionally."

A. Yes, that is correct.

775 Q. You did say that? A. Yes.

Q. You were present, were you not, in the Miami hearing board when Mrs. von Opel testified? A. Not during her entire testimony.

Q. Well, did you hear Mrs. von Opel say the following words to the hearing board?—

Mr. Ingoldsby: Just a moment, please.

I object to that, if Your Honor please.

The Court: I guess I will have to sustain that.

Mr. Burling: I submit, Your Honor, if this witness was present when there was a joint hearing and Mrs. von Opel made statements in his presence about the family relations and this witness acquiesced in that, that becomes admissible against him.

The Court: I will have to sustain that.

By Mr. Burling:

Q. Didn't you say to the Miami hearing board—

"It is not only with my mother, but with my whole family I am not on very good terms. Since 1929 I have hardly seen

anybody. My mother accompanied my father a couple of times on visits".

A. That refers apparently to my entire family. We have quite a large family, at least twelve or fifteen people.

And with the exception of my father and occasional-
776 ly my mother, I am practically without any contact with them.

Q. Mr. von Opel, did you or did you not tell the Miami hearing board that you had seen your mother once since 1929? A. Once, no. I saw her—that might be a mistake in the hearing board. That would be a ridiculous statement to make, because I saw her at least—she visited us in St. Moritz at least two or three times.

Q. The question once again, Mr. von Opel, is, did you testify that at the Miami hearing board? A. I cannot remember that, Mr. Burling. But this whole transcript is so full of mistakes and blunders. I can show you the most ridiculous statements on any page of it.

Q. Wasn't it your purpose before the Miami hearing board to indicate that you had substantially no connection of any kind with Germany?—with your own family or otherwise? A. I stated the facts as they were at the time.

Q. Did you or did you not consider yourself on good terms with your family at the time you testified before the Miami hearing board?

Mr. Ingoldsby: I object, if Your Honor please. I think that topic has been fully explored.

The Court: I will let him complete this line.

Mr. Burling: I have only a question or two more, Your Honor, on this.

778-780 By Mr. Burling:

Q. Did you not say, in the course of the Gloucester City interrogation?—

"I wasn't on too good terms with my family!"

A. I just stated, that that referred to the family in general, to all my cousins; and other members of my family.

781 Q. Mr. von Opel, coming to another topic, Adler & Company is a banking house in Zurich, is it not?

A. Yes, sir.

Q. You testified on direct that your father in the spring of 1931 was in possession of a bank account with the Credit Swiss, is it? A. I don't remember which bank it was.

Q. A Swiss bank? A. Some Swiss bank, yes. It was not the Adler Bank. One of the three or four big banks.

Q. One of the big banks? A. Yes.

Q. And that credit was 3,500,000 Swiss francs? A. Yes.

Q. And is it not a fact that your father obligated the 3,500,000 Swiss francs in your favor in the spring of 1931?

A. Yes.

Q. In the spring of '31 you commenced negotiations with regard to the purchase of the stock of the plaintiff corporation here; is that not so? A. Yes.

Q. At that time the stock was held either by Adler or by clients of Adler? A. That is right.

Q. And the man you negotiated with was Mr. Hans 782 Frankenburg? A. Yes, sir.

Q. Is it correct that the proposition Frankenburg made to you was to give you an option whereby you could purchase the shares, probably all of the shares of the plaintiff corporation, for 300,000 Swiss francs? A. No, that is not correct.

Q. What is wrong so far? A. You said: All of the shares.

Q. Well, all except the three qualifying shares needed to qualify directors? A. No, all except 40 percent of the shares.

Q. And the option related to 60 percent of the shares? A. Yes, sir.

Q. And the further part of the offer was if you were to purchase the 60 percent under the option, you would then lend to the corporation 3,500,000 Swiss francs? A. Yes, sir.

Q. Now, is it a fact that you obtained the option from Adler & Company? A. Yes.

Q. In the spring of '31? A. Yes, sir.

Q. At that time your father obligated himself to put up the 3,500,000 francs in case the option was exercised? 783 A. Yes, sir.

Q. Now, Mr. von Opel, I show you Defendant's Exhibit 37-A and ask you if that is not— A. (Interposing) Yes, that seems to be.

Q. This letter from Adler to you offering to give you an option under certain conditions? A. Yes.

Q. Can you read the signature? A. No, I can't.

Q. But you received this letter? A. Yes, I did.

Mr. Burling: I offer it in evidence.

Mr. Gallagher: No objection.

(Document previously identified as Defendant's Exhibit 37-A; was received in evidence.)

By Mr. Burling:

Q. I show you defendant's Exhibit 38-A and ask you if that is a copy of the letter which you sent to Adler? A. Yes.

Mr. Burling: I offer it in evidence.

Mr. Gallagher: No objection.

(Document previously identified as Defendant's Exhibit 38-A was received in evidence.)

Q. And this option was a cross option, was it not?

A. That is right; yes, sir.

Q. That is, when you accepted you obligated yourself at the request of Adler & Company to purchase 60 percent of the shares for 300,000 francs and to lend the corporation 3,500,000? A. That is not quite correct. I think the letter refers if I exercised the option that I had to pay 375,000 for the 300 shares.

Q. Yes, but if Adler & Company exercised the option against you, then there would be a legally binding contract, would there not, requiring you both to purchase and to lend the 3,500,000 francs? A. At a considerably lower price, if they exercised, and I only put up, instead of 375,000 francs, 315,000, if I recall.

Q. Yes, but if they exercised it, you were obligated to advance 3,500,000 francs, were you not? A. They guaranteed that the value received for my payment of 315,000 was at least 300,000—

Q. (Interposing): Yes, but my point is: If Adler & Company exercised its option it could require you to advance 3,500,000 francs; isn't that true? A. Yes, if they exercised, yes. It was an underlying idea of the whole deal.

785 Q. And that was your approximate personal net worth in the spring of 1931? A. I had—I think my liabilities were greater than my assets.

Q. At any rate, you didn't have 3,500,000 francs for Uebersee Corporation? A. Oh, definitely not.

Q. And you planned to use your father's money in this transaction? A. Certainly. That is what he promised to give to me. Only on the face of his promise could I do it, or otherwise I wouldn't have signed such a letter obligating me. How could I?

Q. The appropriate German authorities of the existence

Q. Isn't it a fact in September of '31 your father noti-

of the guaranty and applied for a license to dispose of the Swiss francs? A. Yes, certainly. He had to do that under the foreign currency regulations.

Q. I will ask you to examine Defendant's D1A and D2A and ask whether they are not respectively a letter informing the authorities and the application for a license?

A. Yes, sir.

Q. And that was sent to the authorities September 786 ber 9th, was it not? A. I don't know. It shows the date on the letter.

Q. You have no reason to suppose the date is not correct? A. No, I don't think so.

Q. And was the application acted upon, if so, when? A. I think, already at the time this application was filed, my father was pretty sure that we would not get it permitted, and I at the time, just in those days of the gift agreement, I explained to him that had he made me an outright gift at this time, namely, in April, of this year, I would have had it, and we would need to file applications, but leaving it pending and giving me a loan, so to say, made it nearly impossible now to get it permitted.

Q. My question was: was this application ever acted upon, and if so, when? A. I could not tell you because there must be answering letters, and if you go through, you must find the answers also.

Q. You don't know what happened to this application? A. I know my part of it. I already mentioned that yesterday, and that was drawn out for a long time, and as the time of December approached—how do you say, I attached it in Switzerland.

Q. We will come to that.

787 You don't know if this was ever acted upon by the German Government? A. There was no positive action taken, and I think even in May, April or May of the following year, that would be 1932, it was rejected.

Q. In April or May '32? A. I think so, yes.

Q. Now, I ask you to look at Defendant's 39-A and state whether that is not a letter from the Deutsche Bank und Discounto Gesellschaft, the foreign exchange department? A. That seems to be the reply to the first letter. It is the reply.

Q. And it is dated September 17, '31? A. This one reads to the—

Q. (Interposing) If you would only answer the question. It is dated September the 17th, isn't it? A. Yes; that is correct.

Q. And it asks for additional information? A. I haven't read it yet.

Yes, they ask for additional information, and they say that it will take at least ten days to make a decision.

Q. So that on September 17th, you were advised that the German authorities hadn't decided whether to permit these 3,500,000 francs transfer in Switzerland, and asked for more information, as they said it would take more than 10 days to act on the application? A. Yes.

Mr. Burling: I offer this in evidence.

Mr. Gallagher: No objections

(Document previously marked for identification as Defendant's Exhibit 39-A was received in evidence.)

By Mr. Burling:

Q. And the request for additional information was complied with by your father, was it not? A. I could not tell you that.

I didn't attend to his side of this affair, only to my side.

Most of these papers I saw several months ago for the first time.

Q. I show you Defendant's Exhibit 40-A, and ask you

if that is not a letter addressed to your father from the Reichs Bank at Wiesbaden? A. Pardon me?

Q. Is that not a letter sent from the Reichs Bank to your father? A. The Reichs Bank at Wiesbaden, the branch of the Reichs Bank.

Q. That appears to be October 22nd, '31, doesn't it? A. Yes, sir.

Q. And that indicates that the German financial 789 authorities were still considering the question of whether to give your father a license to transfer the Swiss francs to Uebersee? A. Yes, as I told you before, we were pretty sure we would not get it at all.

Q. Look at page 2 and say if you see some handwriting on the bottom. A. Yes.

Q. The signature is Faust, is it not? A. Yes.

Q. And he was the lawyer at the Opel works? A. I think he is not a lawyer; he is financial.

Q. Assistant treasurer attending to the tax matters of Opel Corporation under General Motors?

Do you recognize that signature? A. If you will tell me it is Faust, I take it for it; otherwise, I wouldn't know.

Mr. Burling: I wouldn't know either.

I offer this in evidence.

(Document previously identified as Defendant's Exhibit 40-A was received in evidence.)

By Mr. Burling:

Q. At any rate, on October the 5th, 1931, when you say your father gave you the 600 Opel shares, you didn't say to him: Then, of course, I will not receive these 3,500,000 Swiss francs, but instead you went on 790 and negotiated for the license to lend the Swiss francs to Uebersee; isn't that right? A. That is right.

Q. That is correct, isn't it? A. Yes, it is correct, but I have to tell you—

Q. (Interposing) You may tell the Court anything that your counsel asks you on redirect examination, but your obligation is to answer my questions now.

Now, on December 17th, 1931, Adler & Company exercised its right to require you to go through with the transaction, did it not? A. Yes.

Q. And that created a legal obligation under Swiss law for you to purchase the 60 percent of the shares of the plaintiff and to advance 3,500,000 Swiss francs? A. So to say, it set the guaranty in motion my father had given.

Q. But the guaranty ran against you? A. Yes.

Q. And your father had guaranteed your obligation? A. Yes, and I had in turn the corporation.

Q. Now, to the best of your knowledge and ability, did your father receive any statement from any German financial office on or prior to October 5th, 1931, to the effect that the Swiss accounting transaction would not be permitted? A. No. The foreign fund control had just 791 came in, but it was our general impression that we would not get permission, but up to this date, he hadn't received final reply, and the final reply came in April or May, 1932.

Q. What discussion did you have with your father as to why he thought the license would not be granted that had been applied for? A. The general economic situation, and the foreign funds control laws which had just been issued.

Q. What discussion did you have with your father on the occasion of his making the gift which you say he made on October the 5th, concerning this Swiss account of 3,500,000 Swiss francs? A. At the beginning of the conversation, I told him that—I said: It seems absolutely hopeless that this permission is ever to be granted, and I told him that it certainly was a mistake that he hadn't given it outright to me, because if that had been done, I

could have kept it without making obligation, and I further told him that, in my opinion, after he had told the German authorities that this money, this three and a half million Swiss francs were needed to set me up in business in a foreign country, certainly he could not drop the matter all of a sudden because otherwise the German authorities might get suspicious and should ask how it is possible that all of a sudden he gives it up, and what went on there and what we don't know. Do you see?

Yesterday I expressed the fact that I advised
792 my father to keep the matter secret as long as possible to avoid any retroactive action.

Q. But you did come to an oral understanding with your father at the time of the gift agreement that when you could you would give up this Swiss transaction? A. I don't know what I told him at the time. Later on, I think it was after my return from America, if I remember correctly, I told him I would fight some delaying action in Switzerland and ultimately give it up.

Q. What did you say to him on October the 5th about the Swiss transaction? A. On October the 5th I told him what I just have said, that we both had made a big mistake, he not offering me a gift, and I not insisting on outright a gift.

Q. Was it agreed between you whether you were going to keep it secret? Was it agreed between you that you were going to drop the Swiss transaction at that time? A. No, you can't call that an agreement. I merely suggested—it is hard to say—I advised him what to do and I said to keep the matter secret.

It would be better to fight a delaying action and not drop it all of a sudden.

Q. But was it agreed between you, whenever the shares were transferred, that sooner or later the Swiss
793 transaction would be dropped? A. I would not go so far.

Q. It may be that your father intended not only to give you the 600 Opel shares, but also the 3,500,000 Swiss

frances? A. That is a misstatement of facts, because it is not—this agreement does not speak about gifts, but speaks about a loan of one year, so ultimately after a year anyhow we would have to give it up, so it was no use fighting a vehement fight for a one-year loan, after I had received everything else.

Q. Did you or not intend at the time of the transfer of the Opel shares to you to go ahead and purchase at least 60 percent of Uebersee? A. Oh, yes.

Q. You did intend that? A. I had this agreement running, which you showed me.

Q. Did you intend to carry out the terms of the agreement, or did you intend to try to back out of it? A. After I had received the gift, I changed my mind in this matter.

As I explained to you yesterday, this original, this corporation was originally intended as an international patent exchange affair in which several friends of mine wanted to take part, and after I had been given the gift of the Opel shares, I thought I should not bother with this matter. It would take too much of my personal time and attention and I already expressed, at this time,

794 I think it was in December, to Adler, that Uebersee—

Q. (Interposing) You aren't answering the question at all. A. I am sorry.

Q. At the time this transaction took place between your father and you, whenever it took place, did you and your father say to each other that we would not carry through the Uebersee transaction, or, on the other hand, did you say: We will go ahead and buy Uebersee shares nevertheless? A. There was no agreement of this sort, Mr. Burling.

I told you before I told my father in general we should not drop the matter all of a sudden.

Q. You have said that many times, but I asked you the same question and I didn't get an answer.

I want to know what was to be done about the Swiss transaction. Was it intended to go ahead and carry it through so that you would buy Uebersee shares, or was it merely intended to fight a delaying action? A. You asked me about October the 5th.

Q. On October the 5th? A. At this time we had other considerations and other things in mind, and the gift meant so much more to me than some loan; that at this time I don't remember if we went into this matter thoroughly.

Q. Whether or not you went into it thoroughly,
795 did you promise your father to go ahead and buy Uebersee? A. There was no promise necessary.

He never had any interest in Overseas, so why should I promise it to him. We discussed the situation later.

Q. I am talking about whatever date that is. You said October and I say November, but whatever date this took place.

At that time, did you promise your father to buy the shares of Uebersee?

Mr. Ingoldsby: The question earlier was: Did you express your intention with respect to the Swiss transaction and did your father express his intention.

I think a lot of discussion would be eliminated if it could be determined whether there was any discussion relating to the Uebersee situation on the date of October the 5th.

The Court: Yes, I think so.

By Mr. Burling:

Q. On the date this transaction took place, did you agree with your father that he would buy the shares of Uebersee? A. I think you are mixing up two different things, Mr. Burling.

Q. Will you answer the question yes or no? A. Do

you mean Overseas is covered and in the framing of the agreement we are speaking about?

Q. On the date of this transaction, did you make
796 any comment to your father with regard to purchasing the Uebersee shares in any manner? A. No, I did not.

Q. You made no agreement whatever with your father on this date regarding the shares of Uebersee? A. Not in regard to the transaction covered by the Adler agreement.

Q. Did you make any agreement—do you know what the word “any” means? A. Yes.

Q. Any agreement on the date of this transaction with your father regarding the shares of Uebersee in any manner? A. Not on this date, Mr. Burling.

Q. The answer is no; is that it? A. The answer is No.

Q. Thank you.

Did you make any agreement with your father regarding the purchase of shares in any holding company whatsoever? A. My father—

Q. The answer to that is yes or no, isn't it?

Mr. Ingoldsby: Which date is that?

Mr. Burling: Whatever date the purported instrument, Plaintiff's Exhibit 5 was executed.

Mr. Ingoldsby: The conversation he had on the particular day—we contend October the 5th, 1931. If
797 this occurred on that particular date, all right.

By Mr. Burling:

Q. I think he has made it clear. Either October the 5th as you contend, or November as I contend. A. What is the question?

Mr. Burling: Will you read the question?

(The pending question was read.)

The Witness: I suggested at the time to my father that I might acquire some Swiss corporation.

I don't know the exact date at which I made such suggestion. It might have been October the 5th; it might have been after my return, and it is more likely that it was after my return from New York.

By Mr. Burling:

Q. So your best recollection is that at the time of the execution of Plaintiff's Exhibit 5, which is the gift agreement, you didn't make any promise to your father with respect to any holding company? A. He didn't want a holding company.

Q. That is not responsive to the question.

Did you or not make such a promise? A. I just answered the question to the best of my recollection.

I mentioned to him that I might ultimately buy a Swiss corporation.

798 Q. But you said you thought that was in November. A. I didn't say in November. I said it was either October the 5th, or more likely after my return from New York.

Q. So your testimony is that it was more likely than not that you didn't agree on October the 5th with your father to acquire the shares of a holding company? A. I think it was no topic—there was no definite promise given by me, if you mean that. I told him about my intentions, you see.

Q. When did you tell him those? A. As I already told you, there on October the 5th.

Q. You testified that you think it is more likely than not it was on October the 5th, but it was most likely November the 5th? A. It could have been both.

Q. Is it more likely, in your opinion, that it didn't happen in November? A. I would not make a guess.

Q. You don't know; is that it? A. I would not make a guess. I am not sure on which date it was, and I certainly

didn't make a promise because my father didn't want it. It was exactly as I wished to have it cut out of the gift agreement, so it would be silly for me to procure something which he didn't want.

799 Q. Didn't you make an oral agreement with your father on the date that this Plaintiff's Exhibit 5 was executed agreeing to buy the holding company and put the proceeds of the Opel shares— A. (Interposing) I suggested it to him.

Q. At the time? A. I think so, yes, that is possible.

Q. Of course, it is possible, but didn't you say more likely than not it didn't happen then? A. It was either of two possibilities, before my leaving or after my return. It was only three weeks.

Q. In any event, you did say at folio 138, page 46, in the Gold case, did you not, in connection with the execution on the delivery of this deed of gift:

"My father received an oral stipulation from me which was not included in the document, to the effect that these shares or their proceeds would be transferred by me immediately to a corporation whose shares would be distributed or held so as to safeguard the various interests in the stock or its proceeds set forth in the deed of gift"

A. That is right.

Mr. Ingoldsby: What is the statement? What is the date of the statement?

Mr. Burling: The affidavit of the witness, dated 800 June 7, 1935.

By Mr. Burling:

Q. Was that a correct statement? A. Yes. It was my intention that I mentioned it to my father.

Q. Did he receive an oral stipulation from you that you would do this? A. My father, of course, didn't object to my doing it, and I explained my reasons for it, and he told me that he would leave it to me, what to do, and I

said I thought I should not hurry things, to wait a little.

Q. Please answer my next question yes or no.

Is it correct that your father received an oral stipulation that you would buy—that you would transfer the Opel shares or their proceeds to a corporation? A. That is what I told him I would do.

Q. I ask you to answer that question yes or no. It can be answered. A. It is an absolutely perfect statement, yes.

Q. It is correct? A. Yes, I think so.

Q. And you had in mind at that time the plaintiff corporation, did you not? A. At this particular time, the plaintiff corporation was—

801 Q. (Interposing) I wonder if you would answer this question: Did you or did you not have in mind Uebersee Finanz Korporation? A. No, sir; at this time, not.

Q. Thank you.

But you did think so in the Gold case, did you not, referring to what went on in New York:

"For this purpose I had in mind Uebersee Finanz-Korporation, A. G., an option on which was pending as hereinafter described."

I have read folio 150, page 50, in the Gold case. A. As I told you before, I had first got rid of the obligations. I had only 60 percent of the Overseas Corporation, using my option, so how could I use Overseas as a holding corporation? It doesn't make any sense.

Q. Well, I didn't swear to this; you did.

This is your affidavit, isn't it? A. Yes.

Q. You are not in any doubt I was reading from your affidavit, are you? A. Yes.

Q. I will read a little before to indicate what you said:

"In connection with the receipt of these payments and with these transfers and in accordance with the
802 conversation above described with my father, it was my purpose to transfer the entire amount of cash

and securities as soon as possible to a corporation, the stock of which, like the original cost and securities themselves, would be held subject to the terms of the deed of gift, Exhibit R," and then you say:

"For this purpose I had in mind Uebersee Finanz-Korporation, A. G.,"—

Q. (Interposing) I spoke about the corporation first, and then so I had in mind Overseas, which was, of course, which implies I could get one hundred percent of the stock, otherwise, I could not use it.

Q. And you had first been told about Uebersee by Dr. Hans. Frankenburg, hadn't you? A. Yes.

Q. And ultimately when you did purchase it, he handled the transaction, didn't he? A. He did, yes.

Q. Is it not a fact in December, '31, Adler informed you that it intended to exercise its option? A. Yes; that is what they did.

Q. I show you Defendant's Exhibit 41-A and ask you if that is the telegram which you sent to your father on December the 19th, 1931? A. That is correct.

803 Mr. Burling: I offer it in evidence.

(Document previously identified as Defendant's Exhibit 41-A was received in evidence.)

By Mr. Burling:

Q. Now, what happened after Adler advised you that it was exercising its option? A. I told Adler that apparently it was unable--it was impossible to get this three-and-a-half-million-franc loan from my father, but that I would be willing, and instead of acquiring 60 percent of the stock, to go ahead with the setup first intended, to acquire one hundred percent of the corporation for my own purposes.

Q. And Adler agreed with that; is that correct? A. Yes,

and they somewhat later but around this time. I paid for the corporation, I think, I think it was around February, 1932.

Q. Again, when you say Adler, we are talking about negotiations carried on by you with Frankenburg; is that right? A. Yes. Frankenburg was the manager, the director of Adler.

Q. Now, ultimately the German Government did refuse your father's application for license to apply the 3,500,000

Swiss francs? A. Yes, sir. In May, I think it was.

804 Q. March, wasn't it? Wasn't it in March. A.

Around this time, I think it was a little later. It might be March.

Q. Will you examine Defendant's Exhibit No. 42-A and state whether you don't recognize that as the denial of the license covering the 3,500,000 francs transaction? A. That is correct.

Q. Does the date on this instrument refresh your recollection? A. It was March '31. I thought it was a little later.

Q. Now, after the license was turned down, what did you do with respect to your father's account in the Zurich bank? A. I released it.

Q. What did you do first with respect to your father's— you released what? A. I released the attached account.

Q. You had attached the account? A. I had said so previously.

Q. And when did you attach it? A. At the time when the option expired. I think it was in December, if I am not mistaken, December, '31.

Q. What conversation did you have with your father prior to your attaching your father's bank account
805 for 3,500,000 Swiss francs? A. I don't know whether I had any conversation.

I think he knew what I was doing, that I had suggested to him that I was fighting a delaying action, and that is exactly what I did.

Q. You mean that without any specific conversation with him and two months after he had made a gift to you of approximately \$3,700,000, you attached your father's bank account without any further discussion with him about that? A. I told you that I had suggested to him that it would be better to fight a delaying action, so not to arouse the suspicion of the German Government.

For this reason we even retreated two steps. First, he gave the capital, the 375,000 francs, to find an excuse for it. I think he reported that I had gotten that from another group, that I didn't need the capital; then the second step back was that I gave up the attachment.

Q. Will you explain the first step in a little more detail? What did you report and to whom? A. First, my father—I told my father that he should reduce his obligation in steps, and the first step, he told the authorities that he didn't need the 375,000 francs, which I had been promised for acquisition of Overseas.

Q. What else did he say? A. That was the first step.

Q. You said something about another group. Will you explain that, please? A. And I told my father—

Q. (Interposing) Will you explain what you meant when you said you reported something about another group. Just explain that. A. I told my father that not to arouse suspicion of the authorities in this matter, that he had to give some explanation, and he should say that I had been provided with the capital from some friends of mine.

Q. That wasn't true, was it? A. No, not—

Q. (Interposing) In other words, you advised your father to make a false report to the German foreign exchange authorities? A. It wasn't a report. It was just a mention that I had made the statement. He didn't make it; I made it.

Q. To whom did you make it? A. I made—I wrote it to my father's secretary.

Q. You wrote it to your father's secretary? Recommending that your father file a false report; is that correct?
A. No; definitely not.

Mr. Ingoldsby: I object to the witness being asked to draw a conclusion.

The Court: He said, "No."

By Mr. Burling:

Q. And at this time what government was in power in Germany? A. At this time I think it was General Schleicher.

Q. Wasn't it President Breuning? A. It was '31.

Mr. Ingoldsby: What time is this?

Mr. Burling: At the time that he recommended filing that report.

The Witness: I didn't say that, Mr. Burling.

I wrote a letter to my father's secretary mentioning that I didn't need the capital because I had been provided with this capital by some friends.

Mr. Barling: I see.

The Witness: That is all I did.

By Mr. Burling:

Q. But you hadn't been provided with the capital by friends, had you? A. If you don't call my father my friend—I had the capital in the meantime.

Q. Would you call your father a group of friends? A. No; my mother and my father, maybe.

Q. Do you ordinarily speak of your mother and your father as a group of friends? A. No, not ordinarily.

The Court: He said a while ago what it was.

By Mr. Burling:

Q. At the time you attached your father's account, 808 did you file an affidavit or appear in some manner in a Swiss court? A. I don't know the details.

Q. What is your recollection of how you managed to attach your father's bank account? A. I think I stated the facts to a lawyer, and I gave him several documents, especially the document in which my father had guaranteed this loan to me, and with this document in the Swiss court, he succeeded to get an attachment.

Q. Did you tell the Swiss lawyer—what is the name of the Swiss lawyer, please? A. I don't recall his name.

Q. Did you tell him your father had given you the 600 Opel shares in lieu of this transaction? A. There were two different things. This was a loan, a one-year loan. That had nothing to do with the gift.

Q. Now, what did you intend to do with your father's 3,800,000 francs, if you succeeded in attaching it and getting it away from the bank? A. At the time I attached it, as I told before, that was just a delaying action. I had no intention of using or keeping it.

Q. Wasn't it your intention to endeavor to make the loan to Uebersee and then to hold the funds as your father's agent? A. I could not do that, Mr. Burling, 809 as is clearly stated in the paper, the loan was only good for a year, so that would be really a very short time to go through any troubles of this sort.

Q. Will you examine Defendant's Exhibit 4 and see if it refreshes your recollection as to the name of the lawyer who represented you in the attachment proceedings?

Wasn't it Dr. Meyer? A. Oh, yes; Dr. Meyer.

Q. And he was a director of the Uebersee Finanz-Korporation; is that right? A. At this time, I could not tell you.

Q. At any rate, he was or soon thereafter he became one? A. I met him as a lawyer first, but I didn't know at the time if he was a director of Overseas.

Q. And you actually procured a court order directing the sale of the property attached, did you not? A. Yes.

Q. Why did you not go through with the attachment sale, a sale under the court order? A. As I explained to you, it was only a loan for a year, and I didn't want to put up a fight for any loan which had to be returned after a year, anyhow.

Q. And what finally happened to the money? A. It was finally returned. It had been reported to the 810 German authorities, and I think it was later on, if I am not mistaken, and the last part of it was retained by my father with the permission of the foreign funds control for a year or two more.

Q. But ultimately it all ended, and the Swiss francs ended up by being transferred into marks? A. Into marks, yes; definitely.

Q. Now, is it not a fact that until a few days before this transaction, the transfer of the 600 shares of Opel took place, it was your intention when you finished your apprenticeship with General Motors to return to Germany to live? A. My father always wished me to return to Germany. He had, so to say, a head and a heart, and in his heart he didn't realize the corporation was sold, and he was German, and he still felt identical with the corporation, and he always had a wish that I would return into the management, and it was even possible, if political conditions would have worked out, that the Nazis would not have come to power, that ultimately I might have returned to Germany.

Q. Isn't it a fact that you didn't make up your mind to leave Germany until you learned about the advantages of being a *devisen auslander*? A. Before I could learn about these advantages, I had already left, Mr. Burling.

Q. You had already left, but did you intend to 811 leave permanently? A. Definitely, as you see, from my what is called *abmeldung*.

Q. If you left for a year, you would have to fill out an abmeldung? A. No. You need not. Any salesman who leaves Germany and goes to work for a year, he would not report himself out to a foreign country. That is not the normal way of procedure.

Q. Well, at the time you went to General Motors in this country, you didn't intend to stay here with General Motors, did you? A. At this time it was left open. My father wanted me to remain with the corporation and ultimately return to Germany, even after the gift was made, he still had some hopes, and if I remember correctly, he even went to his lawyers and even tried to make an application for me to return to straighten out the tax matters in case I would return, income tax matters and so on, but it was never my intention to return.

He always wished me to return. I must state that.

Q. Will you state why and what factors led you in '29 to make up your mind to leave Germany permanently?

A. The most important factor was that I could not go into business in Germany.

Q. Was it that you could not go into business or could not manufacture automobiles or bicycles under the name of Opel? A. Those were the lines I was trained for, and especially I was very much interested in the bicycle business and would have very much liked to have acquired a bicycle factory, and at the time it was impossible.

Q. Did the agreement of '28 forbid you to go into the bicycle business or merely forbid you to use the name Opel? A. To use the name Opel, but the name Opel, and especially Fritz von Opel, was the biggest asset I had at the time.

Q. But you didn't expect to manufacture bicycles under the name of Fritz von Opel outside Germany? A. No.

Q. Was the fact you could not use the name von Opel in the manufacture of those machines, bicycles or automobiles, wasn't that the fact that determined your not re-

turning to Germany in 1929? Isn't that so? A. I stated it is the restrictions which prevented me from using my well-known name in Germany for commercial purposes that made it impossible for me to return to build up a business there.

Q. I don't quite understand why you could not have applied to get a different name, National Bicycle Company, or the Fritz Bicycle Company? A. Because, as I tried to explain, it was the strings of the Opel corporation, 813 with which all we Opels had been permanently with the factory, and it was our luck in competition, that the name was also the name of our product, and it is much easier to launch a publicity campaign and all those things.

It is just the same as Henry Ford or some name like General Motors. Everything Mr. Ford did reflects upon the corporation and makes its business immensely more easy.

Q. Well, since you could not use the name Opel outside Germany, I fail to understand, and I ask you to explain, what relevance the fact that you could not use the name Opel in Germany has to your determination in 1929 to abandon your German domicile? A. I tried to explain that to you all the time.

Q. But you could not use the name Opel in manufacturing automobiles anywhere in the world, or sewing machines, or bicycles? A. Yes, in all those fields which interested me most.

Q. Anywhere in the world? A. I think that is what the contract said.

Q. Why did you ever leave Germany because you could not use the name Opel for this business in Germany, if you could not use it anywhere else? A. Because it was in Germany where the name was an asset. It was much less known in any other country.

814 Q. I understand you had lost an asset, but why would you be better off in any other country than Germany, since you would not have the asset anywhere?

A. You have to balance the advantages against the disadvantages.

Q. But what advantages accrued to a national character in Germany, a household name, what advantage accrued in 1929, four years before the Nazis came into power, for you to emigrate? A. Maybe you have never been in the position I have been in. I feel like a crown prince after a revolution.

Q. Like what? A. Like a crown prince. I was considered the crown prince of the enterprise and a revolution had taken place, and all glamour was taken from my shoulders, so to say.

Q. But you still were a well-known athlete, balloonist, and an automobile racer, and so forth? A. Yes.

Mr. Ingoldsby: That is becoming argumentative.
The Court: I think it is.

By Mr. Burling:

Q. When you left Germany to go to the United States, where did you intend to reside permanently? A. At this time, I hadn't made up my mind. Mr. Burling.

Q. It was just your intention not to return to Germany; is that right? A. In general, yes. Of course, there
815 may have been some unforeseen circumstances, which would have permitted me to return, but it certainly wasn't my intention to return into any position inferior to the one I had before.

Q. Are you in possession of any documentary evidence, other than this abmeldung, which indicates an intention never to return to Germany for permanent residence, prior to this date? A. I think the only official document which counts in these matters is the document you referred to. That is the abmeldung.

Q. Since I do not agree with you as to the legal significance of the abmeldung, I ask you: are you in possession of any documentary evidence which indicates that before

this transaction you didn't intend to return to Germany at the end of your General Motors apprenticeship? A. You just have shown me several documents.

Q. What documents, please? A. For instance, the application of my father to the Reichs Bank, where he mentioned of my living abroad.

Q. You were living abroad in the course of your General Motors apprenticeship. I am not talking about that, but I am talking about intending to return ultimately to Germany to live.

Do you have any documentary evidence that supports that? A. I answered you that the only legal documents which is required for the purposes of emigration is the documents I spoke to you about.

Q. And you have no other documentary evidence as showing intent to emigrate permanently? A. No. I really don't know in which occasions I should have made such public statements.

Q. Well, you didn't intend to remain permanently in the United States, did you? A. It depends on about what year you are speaking, Mr. Burling.

Q. The year that you spent here. A. It is the year 1930. The intention of General Motors was—

Q. (Interposing) I am talking about your intention. A. My intention was to stay with General Motors for a while, and that is the reason I took up legal residence in Belgium.

Q. You didn't intend to remain permanently in Antwerp? A. No.

Q. And you didn't have a domicile in Antwerp? A. I had a legal domicile in Antwerp, and I got it with great difficulty.

Q. What did you get in Antwerp? A. I just told you, my legal domicile.

817 Q. Explain what it is. I am at a loss to understand how you did it because it is impossible under any system of law to get legal domicile in any place where

you do not intend to remain. A. You can't take up residence in a country?

Q. Oh, yes. A. As I remember, I had to get permission to do that from the Belgium Government.

Q. But you didn't get a certificate from the Belgian Government that you domiciled in Belgium, did you? A. As long as you are living in a country, you had your legal residence there.

Q. I don't mean to embarrass you. You don't know the difference between domicile and residence. A. I think it is a matter of law and quite complicated, Mr. Burling.

Q. I will pass on then.

Now, did you prepare a memorandum which you handed to the Department of Justice in 1943?

I show you Defendant's Exhibit 43 and ask you if that is not such a memorandum, and I ask you to look at the last page and see if your signature does not appear thereon? A. I think that was the memorandum given to the enemy at a hearing.

Q. And signed by you? A. Signed by me.

818 Q. I want to read you the sentence from page—

Mr. Burling: I offer this in evidence,—

Mr. Ingoldsby: (Interposing) May the record show at the time this was prepared by Mr. von Opel, that he was in an internment camp in the United States?

Mr. Burling: There is no doubt about it. I will stipulate it.

Mr. Gallagher: I would like to request the Government, in pursuance of the instructions of Judge Holtzoff, to tender us the copy of the Alien Enemy Board Hearing, if they have found the copy of the one hearing which is missing.

Mr. Burling: Judge Holtzoff's order was that we turn over the papers we intended to use.

Mr. Gallagher: That is not correct. He said to turn—

The Court: (Interposing) It is getting rather late. Try to get this testimony in.

If you want to make a point of that later, you can do it.
Mr. Gallagher: All right.

Mr. Burling: We cannot do it. We cannot produce what we haven't.

Mr. Gallagher: We have all the other hearings except one.

Do you have the notes of it here?

819 Mr. Burling: I don't know. They may be lost. They may never have been transcribed, but I can say I don't have it, and I don't know where they are. I don't know anything about it.

(Document previously identified as Defendant's Exhibit 43 was received in evidence.)

By Mr. Burling:

Q. Did you say at page 12 of this memorandum:

"When I had decided not to return to Germany in 1932, I immediately felt I should change my citizenship"? A. Yes, that is correct.

Q. Was it in 1932 that you made up your mind not to return to Germany? A. That meant the time when I definitely was sure I would never return, yes. It was shortly before this political upheaval began.

Q. Isn't it a fact that what led you to determine never to return to Germany as a resident was that you learned in the summer of '31 that by virtue of the fact you lived outside of Germany for a year and a half you had become a *devisen auslander*? A. It had a certain bearing on it, definitely. It came with all the other reasons.

Q. But the German foreign exchange regulations were one of the reasons that you made up your mind?

820 A. There were personal reasons; there were political reasons; economic reasons; and it was one of the reasons, yes.

Q. Now, at the time that the British pound went off the gold standard, you were in Antwerp? A. Yes, sir.

Q. And you were told, as you said, that you should see to it that your family didn't get in the same difficulties that the von Sittard family got into due to the devaluation of the pound? A. Yes. Not to consider the family.

Q. And it is your best recollection you telephoned your father and asked him to send you a copy of the escrow agreement? A. It is rather hazy about that, at this time. I asked him in general over the telephone, I think, what agreement there was, and he said, the agreement is in good shape, and you need not worry; and I said: Wouldn't it be better to talk it over with General Motors, and that is the reason we sent this wire of September the 17th, I think, to John Thomas Smith of General Motors.

Q. And thereafter you went to Wiesbaden to carry on the discussion with your father? A. That was, I think, at the end of September, yes; shortly thereafter.

Q. Did you say in words or substance to your father that he could get a bad licking in Germany, and that you and he should find a way to protect, to get financial protection? A. I certainly told him in general the situation in Germany was quite a risky situation, and that I, personally, would not like to have any part in it.

Q. Did you tell him that he should see to it that he had financial protection? A. I suggested to him all the time that he should look out for his financial protection, and through my advice I helped him to consider during those years, and if he would have followed my advice more closely, a much bigger part of his fortune would have been saved.

Q. And you learned shortly before October the 2nd that on October 2nd more stringent foreign funds control regulations were to come into effect, didn't you? A. No, Mr. Burling, you could not state it that way.

You say that before October 2nd I learned that on October 2nd a more restrictive law shall come out.

I am not a mindreader, and I didn't know what the German Legislators were going to do.

Q. Wasn't that decree announced a day or so in advance in the Frankfurt Zeitung? A. As far as I know—I am not a lawyer, but I think, so much I know, that the decree in Germany or law becomes effective on the date of publication.

822 Q. Did you read the Frankfurt Zeitung when you were in Germany? A. We had general discussion—

Q. Was it your custom to read the Frankfurt Zeitung when you were in Germany? A. I read it, certainly. It was the biggest newspaper in Germany.

Mr. Burling: Your Honor, we are ⁸missing an exhibit. May I merely note that in the record and come back to it tomorrow?

The Court: Yes.

By Mr. Burling:

Q. At any rate, on the second of October you did drive from Wiesbaden to Mannheim to see Dr. Hachenburg? A. Yes, I did.

Q. And you talked— A. (Interposing) I didn't drive from Wiesbaden to Mannheim. It might have been from Ruesselsheim.

Q. Anyway, you went to Mannheim? A. Yes.

Q. And you had a fairly long talk with Dr. Hachenburg at that time? A. Yes; if I remember correctly, several hours.

Q. What did you say to him that you and your father wished at that time with relation to a usufruct?

823 A. I conveyed to him all the thoughts and wishes and ideas of my father.

Q. Will you tell us just what words you used? What did you say to Dr. Hachenburg? A. I didn't—my father is no lawyer and I am not any lawyer, and I didn't say to him any legal phraseology. I just stated the thing, the principles to him, the two principles being that my sister should not be put at a disadvantage, and that in case of

my death without heirs, this gift should fall back into the family.

Q. Did you say anything to him in words or substance which indicated that you and your father did not intend that a usufruct should arise as that term is normally known in the German law upon delivery of a niessbrauch?

A. I am not aware of the fact that I at this time used the word niessbrauch, and it is very definite that I don't know all the legal fineries of the word.

It took me about ten years to learn about it, approximately.

At this time my father merely stated and said what I conveyed to Dr. Hachenburg. He said I should not have all the income, but said I should account for about 75 percent, which was later changed to 80 percent, with my sister.

Q. You heard Dr. Kornstein testify here the day before yesterday and yesterday, did you not? A. Yes, I did.

824 Q. And you heard him testify about three complicated possibilities as to the intention of the parties to the gift agreement, did you not? A. Yes.

Q. Did you say to Dr. Hachenburg that you and your father intended an agreement along any one of the three lines suggested by Dr. Kornstein? A. I did not suggest any legal terms to him. I just gave him and repeated my father's thoughts, and I can even remember the words I used.

Q. What were those, please? A. My father at the time had quite a considerable income, and certainly there was no reason for him to have collected any additional income because it would have gone to taxation, 80 or 90 percent of it, and it was rather high at the time, and there was no use for him to get additional paper marks.

From the property he had then, without income, he could live for about 200 or 250 years, and it was all the money he personally needed, and my father made it known to me and I conveyed the same idea to Hachenburg. He

said it was never his intention to draw anything, and it was for this reason Dr. Hachenburg in his letter of October the 3rd goes into the question of what he called *thesaurierung*, the acquisition of capital provision for the undrawn part.

825 And I also repeated what in effect my father wanted, not in legal language, and, for example, my father, the words my father told me, he said: In Paris you find the doorman in front of your door which ten or fifteen years before is a rich prince, and now, all of a sudden, these princes are waiters or taxi drivers, or doormen, and my father wasn't sure what was going to happen in Germany, and so he told me if the day should arrive where he had to flee Germany, and where I might arrive in a foreign country, maybe with nothing in my hand but a paper bag, I then want some legal hold on income, and you at the time might be dead, and I might have to fight it out with your family and so even if you are alive I want some legal strings, and if I have to appear as a beggar and ask you for money, I want some legal strings so that I can legally obtain what is due to me, and these words I explained to Dr. Hachenburg, and he put them into legal language, and the result is this gift agreement.

Q. Did Dr. Hachenburg say anything to you about a business branch or a usufruct? A. He explained to me the meaning of it, or tried to explain it to me.

He told me, he said it was a little involved term, but that in simple language it meant that I should set up a corporation, that all the assets should go into the corporation, and that if my father so desired, he could get

826 some income.

Q. In other words, your father could draw income by permitting it to accumulate in the corporation at his option, is that right? A. That is not quite correct because I was to run the corporation, and the gift contract didn't provide for any limitation of my activities. There is not one word.

Q. I am talking about what Dr. Hachenburg said to you.

He didn't explain about rights in personam or rights in rem? A. He gave me a general outline.

Q. Did you know what those terms meant on October the 2nd of 1931? A. I think only in a very vague way.

I think that I always understood that riessbrauch in the strict legal sense means a right in rem, and I also know that I discussed it with Dr. Hachenburg, and he said to establish a right in rem on securities and to deal in the securities in a foreign country makes such an obligation and makes administration and investment policy so difficult, that certainly, he said, it would be the last thing that he would recommend.

Q. Now, Dr. Hachenburg said to you that this was a very involved matter? A. As all lawyers are inclined, he told me, he said, he would have to think it over and make up his mind, and he even said that he wanted
827 more time, and so you find on the first page of the letter, he said he regretted very much that he could not draw a more elaborate letter.

Q. Did he not say, and I show you Plaintiff's Exhibit 7, in the fourth sentence:

"I am sorry that I didn't have more time at my disposal for study of the rather complicated matter"? A. Yes; that is what he said, but I told him we are in a hurry to act, and he realized this fact and so he got to work the same night and the next morning, and made this draft.

Under normal circumstances, he would not have done it, but he was our family lawyer for 30 or more years, and he did us a favor to hurry a little bit.

Q. Well, you understood that he mailed you a draft on the 3rd which was received on the 5th; is that right? A. The letter itself; yes.

Q. And the letter enclosed a draft? A. That was a draft; yes.

Q. Now, did he not state in the letter—I withdraw that question.

Will you state when you saw Plaintiff's Exhibit 10 for the first time? A. This letter, I think I saw it, if at all, after my return in November.

828 Q. Will you look at page 4 of the letter and state whether or not it is not a fact that you and Hachenburg on Friday agreed that there should be a meeting next week between your father and Hachenburg to talk over some complexities of the matter? A. That is what he suggested. That is correct, and that is what my father rejected, and he, in fact, asked me to pay for the entire consultation with Hachenburg.

Let me express it this way: he disliked lawyers and all these complicated matters, and he was a go-getter and he wanted action, and when he read the statement he thought it is just another device to make another couple thousand marks.

Q. Did you tell your father on October 2nd, when you went back to Wiesbaden that Dr. Hachenburg wanted to have a meeting with him and talk over the matter? A. Yes, to my father.

Q. You did tell him? A. It was Hachenburg's suggestion, but I thought it wasn't necessary.

Q. A man you knew to be one of the great lawyers of Germany said he wanted to have a further conference, but you made up your mind it wasn't necessary; is that what you say? A. Yes. Even great lawyers are inclined to proceed to complicate matters some time, more than absolutely necessary, and my father was perfectly satisfied
829 satisfied with those, what is called fundamental considerations.

RUDOLF DEKU, called as a witness on behalf of the defendant, and being first duly sworn as noted above, was examined and testified through the interpreter, Mr. Joseph Laufer, as follows:

Direct Examination

By Mr. Baum:

Q. What is your full name, Mr. Deku? A. Rudolph Deku.

Q. And where do you reside? A. I live in Aachen.

Q. Is that in Germany? A. That is in the Rhineland.

Q. What is your occupation, Mr. Deku? A. I am chief county officer of the County of Aachen.

Q. Are you appointed to that position? A. No; I have been elected by the County Council.

Q. And how are the members of the County Council chosen? A. The County Council is elected by popular election.

Q. Approximately how many people live in the County of Aachen, Mr. Deku? A. The County of Aachen has a population of about 220,000.

Q. And what zone of military occupation is the County of Aachen located in? A. Aachen is situated in the British Zone of military occupation.

Q. Are you an attorney, Mr. Deku? A. No, I am not.

Q. Have you ever studied law? A. Yes, I studied law. I took my first State Bar examination and I also obtained a Doctor's degree in law.

Q. Where did you obtain that Doctor's degree? A. The University of Cologne.

Q. Prior to the position which you now hold, did you ever previously hold any government position in Germany? A. Yes; I was from 1923 to 1933 as City Counsel in the City of Krefeld, and from 1946 to 1947 I was a County Chairman in Bavaria.

Mr. Gallagher: What was that position from 1928 to 1933?

The Witness: As City Corporation Counsel in the City of Krefeld.

Mr. Gallagher: Will you spell that, please?

The Witness: K-r-e-f-e-l-d.

By Mr. Baum:

Q. Approximately how many people lived in Krefeld during the time you held that position there? A. At that time Krefeld had about 150,000 inhabitants.

Q. What happened in 1933 with respect to your position in Krefeld? A. I was discharged from my position in 1933, after the seizure of power by the National Socialists, because of my opposition to them.

836 Q. Then following that discharge did you obtain a position elsewhere? A. No, I didn't succeed. I tried it but it proved impossible.

Q. Well, what did you do after you were discharged in 1933? A. I tried to find another position.

Q. Well, did you remain unemployed? A. Finally my brother heard about this and suggested to me to come to Berlin and join his business there.

Mr. Gallagher: Will you identify the brother's name, Mr. Baum?

Mr. Baum: Yes.

By Mr. Baum:

Q. What is your brother's name? A. Erich Deku.

Q. And what was the date or the approximate date when you went to Berlin as you have described? A. I came to Berlin in the spring of 1934.

Q. And for whom did you work in Berlin? A. I worked in the office of my brother, where the Company for Industrial Counsel and Trade and the Union Bank were.

Q. Well, for which company did you work?—the
837 Union Bank or the Company for Commerce and
Trade? A. I mainly worked for that company.

Q. Did you also do any work for the bank? A. From
time to time I transmitted orders of my brother.

Q. Was the Union Bank a Berlin bank? A. The Union
Bank was a branch of the Union Bank of Darmstadt.

Q. Was the Union Bank a large bank in Germany? A.
It wasn't a great bank.

Q. And what did the Berlin branch of that bank do?
A. The Berlin branch was mainly engaged in stock ex-
change transactions.

Q. Where is the stock exchange located in Germany?
A. The stock exchange is in Berlin.

Q. Can you tell us approximately how many employees
were in the Berlin office of the bank in Berlin while you
were there? A. At that time there were about five to
seven employees there.

Q. Did this company for which you worked have the
same office as the Berlin branch of the Union Bank? A.
Yes; that was all on the same premises.

Q. When you came to work in the Union Bank in Ber-
lin, was a Mr. Daniel Gross employed at the bank? A
Yes.

838 Q. What was his employment there? A. He was
counsel for my brother.

Q. Did he have his office in the offices of the bank? A.
Yes. My brother had made available to him office space,
personnel and everything else that was necessary for the
conduct of a practice.

Q. While you were at the bank in Berlin, Mr. DeKu, did
you ever have occasion to meet Mr. Wilhelm von Opel?
A. Yes.

Q. How did you meet Mr. Wilhelm von Opel? A. My
brother introduced me to him when he was present there.

Q. Can you remember approximately when you met
him for the first time? A. That was in the spring of 1934.

Q. Did you meet him at the bank more than once? A. Yes; I saw him there now and then.

Mr. Baum: If Your Honor please, I would like to make a statement at this time. The next few questions which I will ask this witness, I am asking only for the purpose of impeaching the witness Gross who will testify for the plaintiff later on. This is somewhat irregular, since this witness is out of turn. But I am offering this for no other purpose, in view of the stipulation we entered into yesterday concerning the proceeding in Germany.

839 Mr. Ingolsby: That is all right. Let us hear the question.

By Mr. Baum:

Q. Mr. DeKut, did you ever have a conversation with Wilhelm von Opel in which the name Daniel Gross was mentioned? A. Yes, such a conversation did take place.

Q. Will you tell us how this conversation came about?

Mr. Ingolsby: Just a minute. I object if this witness intends to go into an explanation of what his conversation was about a third party, about some other party, and what Wilhelm von Opel said about Dr. Gross.

The Court: I will have to take the testimony subject to motion to strike later. I cannot tell the connection at this time.

(The question having been read by the reporter:)

The Witness: I was with my brother in one of the office rooms, and Mr. von Opel entered.

Mr. Ingolsby (to the witness making a further untranslated statement): Just a minute; there is no question pending.

By Mr. Baum:

Q: By the way, Mr. DeKu, do you see Mr. Daniel Gross sitting in the courtroom today? If so, will you point him out for the Court? A. Yes, he is sitting over there.
840 Q. Will you tell us in words or substance what you recall of this conversation with Wilhelm von Opel to which I have referred?

Mr. Ingoldsby: If we are going into a conversation, I think we might find out at least the year it took place.

The Court: The time and place and circumstances may be necessary.

By Mr. Baum:

Q. When, approximately, was this conversation with Wilhelm von Opel to which you are referring? A. It took place in the spring of 1934.

Q. And will you now tell us in words or substance what you remember of that conversation?

Mr. Ingoldsby: Just a moment, please.

The Court: You had better fix the place.

Mr. Baum: He said, Your Honor, in the bank.

The Court: And who was present?

Mr. Baum: His brother and Wilhelm von Opel were present. I believe that is in the record.

The Court: All right.

(The pending question having been read by the reporter.)

The Witness: Wilhelm von Opel stated that he was about to be punished on the ground he had taken assets outside of Germany in violation of the German Foreign

Exchange Control regulations.

841 He requested my brother to be of assistance to him before the authorities concerned, and to intervene in his behalf.

My brother agreed and suggested to send Mr. Daniel Gross to Switzerland to see Fritz von Opel there and to discuss the matter with him.

By Mr. Baum:

Q. Thereafter did you have occasion to have a conversation with Daniel Gross concerning this matter? A. Yes.

Q. When did this conversation take place, and where?

A. This conversation took place when Daniel Gross returned from his trip to Fritz von Opel and reported on the matter in the offices.

Q. Who was present at this conversation? A. My brother, Gross, and I.

Q. And will you please tell us in words or substance what you recall of that conversation?

Mr. Ingoldsby: I object to that. This, I submit, Your Honor, is even worse hearsay than the hearsay to which I have heretofore objected, because in this instance even Wilhelm von Opel is not present.

The Court: As I understand, this is offered to contradict a statement that is anticipated.

Mr. Baum: That is correct, Your Honor.

842 The Court: Now, if he doesn't make it, it won't become material. I will rule on it later on.

Mr. Ingoldsby: Very well, sir.

Mr. Baum: Will you please translate the question to the witness?

(The pending question having been read by the reporter, as follows:)

"Question: And will you please tell us in words or substance what you recall of that conversation?"

The Witness: Mr. Gross was evidently dissatisfied with the results of his conversation with Fritz von Opel.

And he stated that in his opinion it would be difficult for Wilhelm von Opel to prove to the German authorities the bona fide character of the agreement which he had concluded.

Mr. Baum: Your Honor, I now conclude the series of questions which are offered for impeachment. The balance are offered for whatever purpose they may serve.

Mr. Ingoldsby: May I have the last part of that statement?—Gross was quoted as saying—

The Reporter (reading): "That in his opinion it would be difficult for Wilhelm von Opel to prove to the German authorities the bona fide character of the agreement which he had concluded."

Mr. Ingoldsby: All right.

By Mr. Baum:

Q. Mr. Deku, did you ever have dinner with Wilhelm von Opel? A. Yes, once.

Q. And when was that? A. This was in the summer of 1934.

Q. Where did you have dinner with Wilhelm von Opel? A. The dinner took place at the Newa Grill in Berlin.

Q. Were you alone with Wilhelm von Opel? A. No; there was present Major von Mudra, Com. von Schwerin, and my brother.

Q. What kind of a restaurant was the Newa Grill? A. It was a very good restaurant.

Q. What do you mean by the expression "very good restaurant"? A. Well, it was the kind of a restaurant which could be frequented only by people who had money.

Q. Did you ever have a meal at the Newa Grill on any other occasion? A. No.

Q. Did you pay for your meal on this occasion? A. No; I was invited.

Q. By whom? A. By Wilhelm von Opel.

Q. Did you have your dinner in the public dining room or in a private room? A. We didn't sit in the midst
844 of the crowd. It was a semi-detached room—semi-private room.

Q. Now, Mr. DeKu, will you please tell us in words or substance what you recall was said by Mr. Wilhelm von Opel during the course of this dinner? A. As a result of my questions, and as a result of the questions of the others, the discussion arose over the payment of a fine of three and a half million marks by Wilhelm von Opel.

We were astonished that he had submitted to such a severe fine, without fighting through a regular procedure.

And we asked him how it came about, how he happened to do that.

He stated that it was well worth three and a half million marks to have his assets outside of the German locked safe.

Q. Did he explain what he meant by the expression "German locked safe"? A. That wasn't necessary. We all understood that.

Q. Did the conversation during this dinner deal entirely with this fine you have referred to, or did it cover other matters? A. Of course, we talked about many other things. We talked about politics, and jokes were told.

Q. Did Mr. Wilhelm von Opel ever say during the course of this dinner—

Mr. Ingoldsby: Just a minute. I object. Does he
845 want to quote the conversation to his own witness?

The Court (To Mr. Baum): You can mention the subject.

By Mr. Baum:

Q. Did Mr. Wilhelm von Opel say anything about Nazi pressure during this conversation? A. He didn't talk about that.

Q. Did he refer to the German authorities at all? A. Yes, he did mention them. He poked fun at the German authorities, because they could be so easily deceived.

Q. Was Mr. Wilhelm von Opel in a cheerful mood or in a sad mood during this dinner? A. He was in excellent spirits.

Q. During the course of this conversation, did he refer to a gift to his son Fritz von Opel? A. No.

Q. While you were employed in the office in Berlin, did you ever have occasion to meet Mr. Fritz von Opel? A. Yes.

Q. Do you see Mr. Fritz von Opel in the courtroom today? A. Yes, he is sitting right here.

Q. Did you see Mr. Fritz von Opel in Berlin once or more than once? A. I saw him several times.

Q. Did you ever have any business discussions with him? A. Yes, I did have business discussions with him.

Q. What was the approximate date of these discussions? A. This was in the year 1936, several months before the collapse of the bank.

Q. And when did the bank collapse? A. In the summer of 1936.

Q. What was the subject of these business discussions with Mr. Fritz von Opel? A. The problem involved was the purchase of bauxite mines in Hungary.

The intention was, which was partly realized, to establish there a corporation.

The intention was to have as partners in this enterprise my brother, Mr. Fritz von Opel, and a Mr. Fayer in Budapest.

I was supposed to become the manager of this enterprise. And I had already received a formal appointment to this position.

Q. Do you remember the name of this company you have referred to? A. There were several names, but later the name of Transdanubia was mentioned.

Q. Do you know whether that corporation was actually formed? A. Yes; articles of incorporation were drawn up.

Q. And where was this corporation incorporated?

847 A. It was established in Berlin.

Q. Under the laws of Germany? A. Under German law.

Q. Did you ever have occasion to make a trip to Budapest? A. Yes; I was there several times.

Q. Was any of those trips in connection with this company you have referred to? A. Yes, I was supposed to make arrangements there for the establishment of an office.

Q. Can you tell us approximately when that trip took place? A. This was a few weeks prior to the collapse of the bank.

Q. I believe you testified that the bank, referring to the Union Bank, failed in the summer of 1936. Is that correct?

A. Yes.

Q. And what did you do then? A. I was unemployed and I tried to obtain a job elsewhere.

Q. Since the time you left the Union Bank in Berlin, have you ever seen Wilhelm von Opel again? A. No.

Q. From the time you left the bank, until you
848 came into this courtroom, have you ever seen Fritz von Opel again? A. I saw him yesterday for the first time here.

Q. And from the time you left the bank in Berlin until you came into this courtroom, have you ever seen Mr. Daniel Gross? A. Yes; I saw him once when he was a witness in a proceeding.

Q. How did you come to be in that proceeding? A. I was indicted for the reason that I had advised somebody to enter into a stock exchange transaction with the bank, although I was supposed to have known that the bank was about to collapse.

Q. And will you please tell us what was the final result of that proceeding? A. I was acquitted.

Mr. Baum: That is all.

Cross Examination

By Mr. Ingoldsby:

Q. Mr. Deku, do you speak any English at all? A. I speak very little English.

Mr. Ingoldsby: Let me talk to him just a minute.

(To the witness directly): Can you understand my questions? Will you answer me in English, please?

The Witness (speaking in English): I have understood what you have said.

849 Mr. Ingoldsby (to the witness directly): You do understand what I said?

The Witness (himself in English): Not all what you have said.

Mr. Ingoldsby (to the witness directly): Do you understand what I just said?

The Witness (himself in English): Yes.

Mr. Ingoldsby (to the witness directly): Will you answer this question in English:

Are you the brother of Erich Deku?

The Witness (himself in English): I am.

Mr. Ingoldsby (to the witness directly): And is your brother Erich the same man who in 1936 was sentenced to a term of imprisonment in Germany for three years and three months at hard labor in connection with the bank failure?

(The witness having spoken in German:)

Mr. Ingoldsby (to the witness directly): Do you understand the question I just asked you?

The Witness (himself in English): No.

Mr. Ingoldsby (to the witness directly): You do not?

The Witness (himself in English): No.

Mr. Ingoldsby: All right; we will go into the German.

By Mr. Ingoldsby:

Q. Will you ask the witness, please, Mr. Laufer, if he is the brother of Erich Deku, who in 1936 was sentenced to serve a term of imprisonment at hard labor for three years and three months for grand larceny from his brother's bank? A. Yes.

Q. Now will you ask him, in connection with that imprisonment, wasn't his brother charged with stealing about five million reichsmarks from Wilhelm von Opel? A. I don't know. I don't know the indictment.

Q. Ask him if he knows the reason why his brother was imprisoned. A. Fritz von Opel told me on the day of the collapse of the bank that my brother had committed embezzlement on the largest extent.

Q. All right. We will come back to that in a minute. How long have you been in the United States. A. I arrived here on November 28.

Q. And did the Government pay your transportation? A. Yes.

Q. And they are paying your return transportation, are they not? A. I hope so.

Q. How much have you been paid per day since November 28th? A. I am supposed to receive \$15 per day.

Q. Do you have any other financial arrangements with the Government? A. No, I do not.

851 Q. Will you ask the witness how old he is at the present time? A. I am now 52 years of age.

Q. Now, Mr. Deku, isn't it a fact that you first became acquainted with Wilhelm von Opel in the year 1932? A. No.

Q. I want to ask you about the first quotation which you attributed to Wilhelm von Opel. A. Yes.

Q. When did that conversation first take place? A. In the spring of 1934.

Q. Can you place that conversation any more definitely, from the standpoint of time? A. No.

Q. You do not know what month? A. No.

Q. And where did this conversation take place? A. It took place in the offices of the Union Bank in Berlin.

Q. And who was present? A. My brother and Wilhelm von Opel.

Q. So your brother heard the same conversation which you have just repeated? Is that correct? A. Yes.

852 Q. Is he here? A. No.

Q. Where is he? A. He is in Germany.

Q. When did you last see your brother? A. I saw him shortly before my departure.

Q. Do you see him frequently? A. No; I haven't seen him for ten years.

Q. How did you happen to see him on the occasion just before you left? A. He was called for to attend an interrogation at the Department of Justice in Frankfurt.

Q. And how did you happen to be there? A. I happened to be there because I got the documents for the trip to America there.

Q. And it was just a matter of chance, was it, that your brother happened to be there the same day? A. No. I had been requested, since I went to Frankfurt by way of Cologne, to bring him along.

Q. And is it your testimony that that is the first time that you have seen your brother in ten years? A. I didn't see him for ten years, and I saw him again for the first time this year.

Q. Do you communicate with your brother by mail? A. He has written me a letter through my daughter.

853 Q. Just one letter? A. Yes.

Q. Only one letter in ten years? A. He did not write me during the ten years.

Q. Now Mr. DeKu, am I correct in quoting you when I say that you attributed the following statement to Wilhelm von Opel—

In the spring of 1934 he said that he was about to be punished because he had taken funds outside of Germany? Is that correct?

Mr. Burling: I object to the question, Your Honor. In the first place, the record speaks for itself as to what the witness said. In the second place, the question is not in accord with our recollection of the testimony of the witness.

The Court: He has a right to check him on cross. I will permit it.

(The pending question having been read by the reporter:)

The Witness: Yes, that was the substance of his statement.

Mr. Burling: If your Honor please, I agree that ordinarily a witness may be checked on cross. But where the witness is being examined through an interpreter, and where the difference is one of fine shadings and meanings of words, I submit the objection is appropriate. That
854 is to say, I suppose Mr. Ingoldsby is endeavoring to bring out the fact that Wilhelm said he had taken funds outside of Germany, rather than transferred, which is what the witness first said.

The Court: I suppose you can straighten that out on redirect.

Mr. Ingoldsby: I am only endeavoring to bring out the answer of the witness is pretty pat and can't stand much cross examination.

The Court: It can be brought out in redirect.

By Mr. Ingoldsby:

Q. Now, did Mr. Wilhelm von Opel make any further statement by this time—and “by the this time” I mean the spring of 1934—regarding what he meant by taking funds outside of Germany? A. I do not recall the details.

Q. So you don't know what Mr. von Opel was talking about when he said that he expected to be punished because he had taken funds outside of Germany, did you? A. I knew that the proceeds from the sale of shares to General Motors, of General Motors, were involved.

Q. How did you know that? A. That was mentioned on that occasion.

Q. At the time of the conversation, in the spring of 1934, were the General Motors shares mentioned? A. I think they were mentioned.

855 Q. Just two questions ago didn't you tell us that there was no conversation further than what you had indicated? A. I said that I did not remember all the details.

Q. Well, now, I want to ask you if you remember any additional details to the details which you have already told us? A. No, I do not recall any further details.

Q. Did Mr. von Opel make the statement, to which you have just testified, in a loud voice or was he telling this as a secret? A. No; he was rather excited.

Q. Now, Mr. Dehn, your brother Erich was president and owner of the Union Bank of Berlin and Darmstadt, was he not? A. Yes.

Q. And you were employed in the Berlin branch of that bank, were you not? A. No; I was an employee of the company.

Q. What company? A. The Company for Trade and Industrial Counseling.

Q. Was that company a part of your brother's bank? A.

It was a limited corporation which was owned by my brother.

Q. And what was the nature of the business of that corporation? A. This company attempted to engage in import and export business and to establish itself in the sale of automats.

Q. You also worked for the bank, didn't you? A. Only on occasion.

Q. You did rather odd jobs for the bank, didn't you? A. Yes.

Q. What salary were you being paid at that time? A. I was paid 400 marks a month.

Q. That is about \$100 a month, is it not? A. Not quite.

Q. Not quite \$100 a month? A. It is about \$130.

Q. About \$130. So you were just a clerk in the bank, were you not? A. I wasn't in the bank.

Q. All right. I won't labor that point.

Now, before you came to Berlin to work for your brother, you lived in the Rhineland, didn't you? A. Yes.

Q. And after you went to work for your brother in Berlin, did you move your family to Berlin? A. Yes.

Q. How much of a family did you have at that time? A.

I had a wife and three children.

857 Q. And you felt that this position with your brother was reasonably secure, did you not? A. I was glad I had that position.

Q. And you expected that position to continue, did you not? A. I would have preferred to have another job.

Q. Well, you didn't expect to lose that one, did you? A. I have tried to get another job.

Q. All right. Now, Mr. Deku, the way you left that job was that the bank went broke and all the employees got fired, did they? A. No, I left the bank on the same day when I heard that these charges were being made against my brother.

Q. Was Wilhelm von Opel a client of your brother's bank? A. Yes.

Q. And he was considered by your brother a very substantial client, was he not? A. Yes.

Q. And as a result of having Wilhelm von Opel as a client, the bank was able to attract other large clients, was it not? A. I do not know the internal connections.

Q. From 1932 until the latter part of 1935, your brother and Wilhelm von Opel were quite friendly were they not? A. Yes; that was the appearance.

Q. And the only way that you ever got to see Wilhelm von Opel was because you happened to be along with your brother? Is that correct? A. Yes.

Q. Now, things were going pretty well at the bank around the 1935 period, were they not? A. So far as I could judge it, yes.

Q. Now, in 1936 the bank failed, didn't it? A. Yes.

Q. And in the spring of 1936 your brother was sent to the penitentiary, wasn't he? A. In the spring? I think it was in the fall.

Q. Well, all right; possibly he was convicted in the spring and sentenced in the fall; but we won't labor that.

In any event, between the spring and the fall of 1936, your brother went to the penitentiary, didn't he? A. In the summer of 1936.

Q. And he was sentenced to serve three years and three months at hard labor, was he not? A. Yes; I read about it in the papers.

Q. That was a very sensational case in Berlin, was it not? A. I was no longer in Berlin at that time.

859 Q. Do you know whether or not this was a sensational case in Berlin, whether you were there or not?

A. I must assume that, because it was printed in the newspapers.

Q. And it was given widespread publicity in the newspapers, wasn't it? A. I did not read the Berlin papers.

In the newspapers of the Rhineland, it wasn't unusually big.

Q. What wasn't unusually big? A. The treatment of this lawsuit in the newspapers.

Q. I show you a newspaper dated April 10, 1937.

Mr. Burling: I object, unless the newspaper is identified.

Mr. Ingoldsby: I don't propose to offer them in evidence.

Mr. Burling: I still object, unless the newspaper is identified.

The Court: Well, unless he knows something about the newspaper, too.

Mr. Ingoldsby: In fact, I don't think I will use the newspapers at all.

By Mr. Ingoldsby:

Q. You know, do you not, that the man who swore out the warrant of arrest against your brother was Fritz von Opel, right here, wasn't he? A. I do not know that.

860 Q. You do not know that? A. No, I did not know that.

Q. Well, do you know that Fritz von Opel was the principal witness against your brother? A. No, I do not know anything about the lawsuit—the proceeding.

(Thereupon a short recess was had. The following then occurred:)

861 By Mr. Ingoldsby:

Q. Mr. DeKu, we were just talking about the trial of your brother. It is your testimony that you did not know that Fritz von Opel swore out the warrant of arrest against your brother? A. I do know that a warrant

was taken out against my brother, but who made an oath in connection with it I do not know.

Q. And it is your further testimony that you do not know that Fritz von Opel was the principal witness against your brother at the time of his trial? A. No, I do not know that. I had so many troubles of my own that I did not, I was not concerned with the proceedings against my brother.

Q. You were not concerned with the troubles of your brother? A. No.

Q. And did you know that your brother took an appeal from his conviction? A. I do not know that.

Q. And you do not know that the Supreme Court of Germany sustained your brother's conviction and he was forced to serve his sentence? A. I do not know that my brother spent in jail during that period—spent time in jail during that period.

862. Q. And it is your further testimony that you read nothing about this case while it was going on in the newspapers?

Mr. Burling: I object, Your Honor, that is not the witness' testimony.

The Court: Ask him if it is his testimony.

By Mr. Ingolsby:

Q. Is it your testimony that you did not read about this case in the newspapers? A. No, I didn't say that.

Q. What did you say? A. I said that all that I do know about the trial I know from the newspapers.

Q. Did you ever discuss your brother's troubles with him after he was released from prison? A. I have seen him again for the first time in 1948 and the matter had gone by for such a long period of time that it was no longer of interest to talk about it.

Q. So your testimony is that you never saw your brother from 1936 until 1948. A. No, I said that I didn't see him for ten years. I visited him once in Butzbach. That is the penitentiary.

Q. When was that that you visited him in the penitentiary? A. That must have been some time in 1937 or 1938.

Q. And on the occasion of your visit to the penitentiary to visit your brother, you did not discuss the reason why he was in the penitentiary, is that your testimony?

A. I called on him in order to discuss with him matters which concerned his family.

Q. Would it be a correct statement to say that Wilhelm von Opel, the main client of the bank, lost between five and six million reichsmarks as a result of your brother's manipulations? A. I do not know that.

Mr. Ingolsby: Mark that plaintiff's exhibit whatever the next number is for identification, (handing document to clerk).

(Accordingly, the document referred to, a copy of a newspaper clipping, was marked Plaintiff's Exhibit 82 for identification.)

Mr. Ingolsby: Will you show him that, please.

Mr. Burling: Just a moment, Mr. Laufer, will you show it to us first, please.

Mr. Ingolsby: In order that you do not have to read all that, I will state my next question now.

By Mr. Ingolsby:

Q. If I show you a newspaper clipping which states that the damage to the main client is 6.8 million reichsmarks,